

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

Billard  
25405

**FILE:** B-208500**DATE:** June 7, 1983**MATTER OF:** Union City Plumbing**DIGEST:**

Bid which omits major portions of invitation for bids and does not incorporate or reference the material provisions omitted so that bidder, upon acceptance of bid, clearly would be bound to those material requirements properly may be rejected.

Union City Plumbing protests the Forest Service's rejection of its bid under solicitation No. R6-82-180C for an addition to the Curlew Job Corps Center toilet facility in Colville National Forest, Washington.

Union City bid as follows:

<u>UNIT</u>	<u>AMOUNT BID</u>
LUMP SUM	\$23,500.00
TAX	1,386.50
TOTAL AMOUNT BID	\$24,886.50

The line item for tax was not in the original bid form, but was added by the protester. The agency determined that Carney Plumbing's bid of \$24,295 was low. When informed of this, after bid opening, the protester asked the contracting officer whether the Government paid sales taxes. After being told that the Government did not pay state sales taxes, Union City asserted that it was the low bidder, based on its lump sum bid of \$23,500 excluding the Washington State Sales and Use Tax, and protested the agency's evaluation to our Office.

The agency reports that it rejected Union City's bid because it would have been improper to permit Union City to clarify its bid price after bid opening, because Union City's bid guarantee of \$4,700 was insufficient to meet the requirement for a guarantee of 20 percent of the bid

025838

price, and because Union City did not submit Standard Form (SF) 21 with its bid. We find the rejection to be legally unobjectionable.

When Union City submitted its bid it only included a bid bond; the bid schedule; SF 19B, "Representations and Certifications"; "Supplemental Representations and Certifications to SF 19B" and Amendment No. 1 modifying a wage rate determination. Union City's bid did not include SF 21, which referenced the specifications and drawings for the project, included the language by which the bidder "proposes to perform all work \* \* \* in strict accordance with" the specifications and with SF 23-A, "General Provisions" and SF 19-A, "Labor Standards Provisions Applicable to Contracts in Excess of \$2,000," and contained provisions which stated that "the undersigned" agrees to hold its bid open for 60 days, to commence work within 10 days of receipt of the notice to proceed and to complete work within 60 days of receipt of the notice to proceed. SF 23-A and SF 19-A also were not submitted.

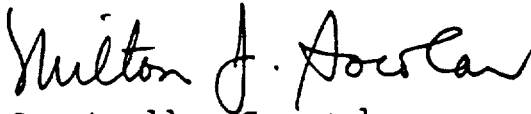
The general rule is that where a bidder fails to return all of the documents which were part of the invitation with its bid, the bid must be submitted in such form that acceptance would create a valid and binding contract requiring the bidder to perform in accordance with all the material terms and conditions of the invitation. See Leasco Information Products, Inc., 53 Comp. Gen. 932 (1974), 74-1 CPD 314. The documents which Union City did submit, other than Amendment No. 1, do not refer to or incorporate the provisions in SF 21, some of which, such as start up and completion times, were obviously material. The sole document which refers in any manner to the terms in SF 21 is Amendment No. 1. That document states "Except as provided by this amendment, all previously stated terms and conditions remain unchanged and in full force and effect."

We do not believe that this language serves to incorporate the missing SF 21 provisions into Union City's bid. The language merely indicates that the solicitation was unchanged but for the wage rate. It does not establish what the unchanged terms and conditions were nor does it include a commitment by the bidder to perform in accordance with those terms and conditions. See International Signal & Control Corp; Stewart-Warner Corporation, 55 Comp. Gen. 894 (1976), 76-1 CPD 180. Under the circumstances,

B-208500

the contracting officer reasonably could view the bid as one that at best was ambiguous with respect to whether it unalterably committed the bidder to all the material terms and conditions of the solicitation. Therefore, rejection of the bid was proper.

The protest is denied.

for   
Comptroller General  
of the United States